REMARKS

Claims 1-21 were pending in the present application. Claims 1, 11, 16, and 19 were amended. Accordingly, claims 1-21 are still pending in the present application.

Claims 1-21 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of co-pending Application number 10/216,541. Applicant respectfully requests the double patenting rejection be held in abeyance until the pending claims are otherwise indicated as allowable, at which time Applicant will consider the filing of a terminal disclaimer, or cancellation of the provisional rejection if the co-pending application has not yet been allowed (*see* MPEP §804).

Applicant notes that silence with regard to any of the Examiner's rejections is not an acquiescence to such rejections. More particularly, silence with regard to the Examiner's rejection of a dependent claim, when such claim depends from an independent claim that Applicant considers allowable for reasons given herein, is not an acquiescence to the rejection of the dependent claim(s), but rather a recognition by Applicant that such previously lodged rejection is moot based on Applicant remarks and /or amendments relative to the independent claim (that Applicant considers allowable) from which the dependent claim(s) depend.

Claims 1-15 stand rejected under 35 U.S.C. §112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended claims 1 and 11 for clarity.

Claims 1-14 and 16-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Applicant's Admitted prior Art (APA) in view of Graf (U.S. Patent Number 6,192,423) (hereinafter 'Graf'). Applicant respectfully traverses this rejection.

Claim 15 stands rejected under 35 U.S.C. §103(a) as being unpatentable over APA in view of Graf and in further view of Shiekh et al. (U.S. Patent Number 6,266,721) (hereinafter 'Shiekh'). Applicant respectfully traverses this rejection.

Applicant's claim 1 recites

"A service processor for use in a computer system that further includes a host processor, the service processor comprising:
a management interface including a first port forming an external user interface and a second port forming an internal console interface coupled to the host processor;
the service processor being operable to provide system management functions within the computer system and further being responsive to external mode switching commands received via the user interface to operate one of:
a management mode in which commands received via the user interface are processed by the service processor; and
a console mode in which commands received via the user interface are passed to the internal console interface for processing by the host processor." (Emphasis added)

The Examiner acknowledges the APA does not teach "(1) a second port for the internal console interface, and (2) external mode switching commands." However, the Examiner asserts the APA teaches each and every other element of Applicant's claim 1. Specifically, the Examiner asserts the APA teaches an internal console interface (host processor providing console functions). Applicant respectfully disagrees with the Examiner's assertion.

In light of the Examiner's comments in the Examiner's rejection of the claims under 35 U.S.C. §112, 2nd paragraph, in the most recent Office Action dated June 14, 2005, Applicant believes the Examiner has made an erroneous characterization of the APA and its combination with Graf. Specifically, the Examiner stated "It is also not clear to which processor (or management interface) the "first port" and "second port" are associated with." (Emphasis added)

The APA teaches at page 1 lines 12-18

> "This known service processor provides Lights Out Management service processor functions. This service processor, that is implemented using a microcontroller, provides basic independent monitoring and control functions within the server. The service processor in this prior product is connected to a serial network port via a multiplexer. The **multiplexer enables a remote management station** to interface **either** with **the service processor** for providing management functions **or** with **the host processor** for providing console functions. **However** the provision of a multiplexer and the associated control circuitry adds cost and complexity." (Emphasis added)

From the foregoing, in contrast to the Examiner's assertion, Applicant's APA teaches a microcontroller (used as a service processor) connected to a remote management station via a multiplexer. The APA further teaches the multiplexer is an external device used to connect a remote management station via an external serial port to either the service processor or to the separate host processor. Thus, APA **does not teach or disclose** the service processor "... a **second port** forming an **internal console interface**" **nor does APA teach or disclose** the service processor "**operating one of a management mode** in which commands received via the user interface are processed by the service processor **and a console mode** in which **commands received via the user interface are passed** to the internal console interface for processing by the host processor" as recited in Applicant's claim 1.

The Examiner further alleges that Graf teaches these limitations. Applicant respectfully disagrees. More particularly, Graf teaches at col. 2, lines 25-65

> "FIG. 1 shows a network server which utilizes **a single serial port connector 17 to provide access to either a host application (remote access software) or a separate microcontroller 12.** The host application runs on a central processing unit (CPU) 30 within a motherboard 14. A Universal Asynchronous Receiver Transmitter (UART) 15 is used by the host application to access the serial port. ...
> A microcontroller 12 includes an internal UART 13. ...
> A multiplexer 16 selects either UART 13 or UART 15 to be connected to a serial port connector. For example, serial port connector is an EIA-232-D (nine signal) RS-232 connector. A modem 18 is used to provide communication between serial port connector 17 and a telephone line 23. A control logic 11 through a multiplexer control (MUXCTL) line 25 controls the selection made by multiplexer 16. Control logic 11 monitors

lines 26 from serial port connector. Lines 26 include a data carrier detect line (DCD) line 26 and a receive data (RD) line." (Emphasis added)

Graf also discloses at col. 4, lines 4-55

"Input/output lines 28 for UART 15 include a transmitted data line (TD2), a receive data line (RD2), a ready to send line (RTS2), a data terminal ready line (DTR2) and a clear to send line (CTS2), a data set ready line (DSR2) and a data carrier detect line (DCD).
In order to appropriately switch multiplexer 16, control logic 11 monitors DTR2 through line 27, as well as DCD and RD lines 26 directly from serial port connector.
FIG. 2 is a simplified flowchart which illustrates how control logic 11 controls the switching of multiplexer 16. In a step 31, when a user calls in through modem 18 and serial port connector 17, multiplexer 16, by default, connects serial port connector to UART 13 and control logic 11. Microcontroller 12 handles the user log in.
As illustrated by a step 32, once the user is logged in, the user can select a "serial port pass through" mode. When the user selects the "serial port pass through" mode, in a step 33, control logic 11 asserts MUXCTL line 25 causing multiplexer 16 to connect UART 15 to serial port connector. The host application can then utilize serial port connector 17 through UART 15 to communicate with the user (client) software. The host application can be implemented, for example, using remote access software such as Remote Access Service software available from Microsoft Corporation, having a business address at 16011 NE 36th Way, Redmond, Wash. 98073-9717.
...If in step 34, a time-out has occurred, control logic proceeds to a step 37. If, in step 34, a connection is made before there is a time-out, in a step 35, the host application establishes a connection with the client application. In the preferred embodiment, the client application is able to switch between remote management application (run on microcontroller 12)) and remote access application (the host application running on CPU 30) without dropping the connection to modem 18. Control logic 11 continues to monitor the connection between serial port connector 17 and UART 15 to detect when a disconnect has occurred." (Emphasis added)

From the foregoing, it is clear that Graf uses a multiplexer that is external to the microcontroller to select between a remote user using the microcontroller or the host CPU. Applicant submits this is analogous to the system described in the APA. Thus, Applicant submits that Graf does not teach or even fairly suggest a service processor (microcontroller) including "**a second port** forming an internal console interface coupled to the host processor," **nor does Graf teach or suggest** "the service processor being

responsive to external mode switching commands received via the user interface to operate one of a management mode in which commands received via the user interface are processed by the service processor and a console mode in which commands received via the user interface are **passed by the service processor** to the console interface for processing by the host processor" as recited in Applicant's claim 1.

Furthermore, since Graf clearly uses a multiplexer that is external to the microcontroller, such as the multiplexer described in Applicant's APA, Applicant submits that Graf teaches away from Applicant's invention. Specifically, Applicant teaches in the APA "**However** the provision of a multiplexer and the associated control circuitry adds cost and complexity." Thus, combining Graf with APA would not produce Applicant's invention as recited in the claims.

Thus, Applicant submits that **neither** APA **nor** Graf, taken either singly or in combination, **teach or suggest** the features recited in Applicant's claim 1. Accordingly, Applicant believes claim 1, along with its dependent claims, patentably distinguishes over APA, and over APA in view of Graf for the reasons given above.

Shiekh is directed toward a computer system in which "a distributed service processor network 102 may operate as a fully self-contained subsystem within the server system 100, continuously monitoring and managing the physical environment of the machine (e.g., temperature, voltages, fan status)." (*See* Shiekh col. 5, lines 15-19) (Emphasis added)

Applicant submits that Shiekh **does not teach or suggest** the service processor "being responsive to external mode switching commands received via the user interface to operate one of a management mode in which commands received via the user interface are processed by the service processor and a console mode in which commands received via the user interface are **passed by the service processor** to the console interface for processing by the host processor" as recited in Applicant's claim 11. (Emphasis added)

Applicant's notes that claims 11, 16 and 19 recite features that are similar to features recited in Applicant's claim 1. Accordingly, Applicant submits that claims 11, 16 and 19, along with their respective dependent claims, patentably distinguish over APA, over APA in view of Graf, and over APA in view of Graf and in further view of Shiekh for at least the reasons given above.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-03200 /SJC.

Respectfully submitted,

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